IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

Crl.Rev.Pet.No. 111 of 1998()

CRA.24/1995 of ADDL. SESSIONS COURT, THRISSUR
CC.325/1992 of JUDL. MAGISTRATE OF FIRST CLASS COURT, KODUNGALLUR

.....

REVN. PETITIONER:

IQBAL, S/O.SYED MOHAMMED,
THAIVALAPPIL,
VELATHAKADAVU DESOM,
SREENARAYANAPURAM VILLAGE,
KODUNGALLUR TALUK.

BY ADV. SRI.S.SANAL KUMAR
SRI.K.J.MOHAMMED ANZAR

RESPONDENTS:

---

1. GOPI PILLAI ALIAS GOPALAKRISHNAN,
S/O.APPU PILLAI, PULIYAMPULLY,
SECRETARY, SREE NARAYANA SADU
PARIPALANA SAMAJAM, CHATHEDATH PARAMB,
LOKAMALISWARAM, KODUNGALLUR.

2. STATE OF KERALA REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.N.P.SAMUEL
PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 06/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 111 OF 1998

Dated this the 6th day of August, 2007

O R D E R

The revision petitioner prosecuted the 1st respondent herein for an offence punishable under section 138 of the Negotiable Instruments Act, 1881, consequent on the dishonour of Ext.P1 cheque dated 30.9.92 for a sum of Rs.7,250/- (Rupees seven thousand two hundred and fifty only). Eventhough he raised a defence that his prosecution was bad without the prosecution of the firm of which he was a Partner, the courts below have concurrently repelled the said defence and convicted him for the said offence. But the sentence imposed on the 1st respondent was one of simple imprisonment for three months and to pay a fine of Rs.5,000/- (Rupees five thousand only) which was directed to be paid as compensation under section 357(1) Cr.P.C.

2. The main ground which is urged in support of this revision by the complainant is that the courts below should have directed the cheque amount of Rs.7,250/- (Rupees seven thousand two hundred and fifty only) as compensation instead of limiting the same to Rs.5,000/- (Rupees five thousand only) by

way of fine. I see some force in the said submissions. For the 1st respondent accused also, I do not think that penal servitude by way of incarceration beyond the rising of the court is warranted. Accordingly, I am inclined to reduce the sentence of imprisonment for three months to imprisonment till the rising of the court and direct the 1st respondent accused to pay to the revision petitioner/ complainant the cheque amount of Rs.7,250/- (Rupees seven thousand two hundred and fifty only) by way of compensation under section 357(3) Cr.P.C. within two months from today, failing which he shall suffer simple imprisonment for one month.

This revision is allowed in part as above.

(V. RAMKUMAR, JUDGE)

aks

V. RAMKUMAR, J.

Crl. R.P. No. 111 OF 1998

O R D E R

6th day of August, 2007